

REPORT - PLANNING COMMISSION MEETING
September 23, 2004

Project Name and Number: **BART WARM SPRINGS EXTENSION (WSX) PARKLAND DISPOSITION AND ACQUISITION IN CENTRAL PARK (PLN2005-00065)**

Applicant: City of Fremont

Proposal: To consider a finding for General Plan conformity for the proposed disposition to BART of approximately 1.0 acre of land in Central Park to facilitate BART's proposed construction of possibly two vent and emergency evacuation structures for the undergrounding of the BART train through Central Park, and the proposed acquisition from BART of approximately 1.0 acre of land east of the existing Union Pacific Railroad tracks adjacent to Stivers Lagoon. The proposed acquired property would be added to the City's Central Park in either fee title to the City, or pursuant to a license agreement with the Alameda County Flood Control and Water Conservation District ("ACFC").

Recommended Action: Find that the proposed property disposition and acquisition conforms to the General Plan, based on findings stated in Exhibit "A".

Location: Fremont Central Park (Paseo Padre Parkway and Stevenson Boulevard) in the Central Planning Area.

APN: 525 000100300, 525 000101000, 525 015000407

Area: 433.90 acres

Owner: City of Fremont, Alameda County Flood and Water Conservation District (ACFC), and the Bay Area Rapid Transit District (BART)

Agent of Applicant: Jim Pierson, Assistant City Engineer, City of Fremont

Environmental Review: A Negative Declaration has been prepared for this project. An Environmental Impact Report (EIR) for the proposed BART Warm Springs Extension (WSX) Project was certified by the BART Board of Directors in 1992. A Supplemental Environmental Impact Report (SEIR) for the WSX Project was certified by the BART Board of Directors in June of 2003. The EIR and the SEIR documents identified and provided mitigations for the impacts of the two vent and emergency evacuation structures required in Central Park due to the undergrounding of the BART facilities through Central Park for the WSX Project.

Existing General Plan: Institutional Open Space, Open Space

Existing Zoning: O-S (F) Open Space (Flood Combining) District

Existing Land Use: City Park and vacant parcel

Public Hearing Notice: Public hearing notification is applicable. 366 notices were mailed to owners and occupants of property within a minimum radius of 300 feet from the site on the following streets: Stevenson Boulevard, Balis Street, Paseo Padre Parkway, Civic Center Drive, Barbara Street, Conoga Street, Mission Boulevard, Barrymore Common, Walnut Avenue, Albany Common and Becso Drive. The notices to owners and occupants were mailed on September 10, 2004. A Public Hearing Notice was delivered to The Argus newspaper on September 3, 2004 to be published by September 9, 2004.

Executive Summary: The applicant requests a finding of General Plan conformity to allow the disposition and acquisition of parkland property to facilitate construction of vent and emergency evacuation structures which are proposed to be included as a part of BART's Warm Springs Extension (WSX) project to cross underground through Central Park. The property to be acquired would be added to the City's Central Park, as fee title or pursuant to a license agreement with the Alameda County Flood Control and Water Conservation District ("ACFC").

Background and Previous Actions: The San Francisco Bay Area Rapid Transit District (BART) has been in operation since 1972 and currently operates in four Bay Area counties: San Francisco, Alameda, Contra Costa and San Mateo. In response to public support for the extension of BART in southern Alameda County, BART is proposing a 5.4-mile extension of the BART system south from the existing Fremont BART Station to a proposed new station in the Warm Springs district of the City of Fremont, with an optional station at Irvington. This proposed BART project is referred to as the BART Warm Springs Extension (WSX) project.

BART prepared an environmental impact report (EIR) for the Warm Springs Extension (WSX) in 1991. In 1992, the BART Board of Directors certified the Final EIR and adopted a project for the WSX. In 2003, BART prepared a Supplemental Environmental Impact Report (SEIR) for the Warm Springs Extension. The BART Board of Directors certified the Final SEIR in June of 2003. Implementation of the proposed BART Warm Springs Extension involves a subway under the City's Central Park, which subway is being pursued by BART at the request of the City in order to minimize disruption to Central Park (by avoiding the WSX project being constructed elevated over Central Park).

Specifically, the proposed BART alignment would proceed in a cut-and-cover subway under Stevenson Boulevard and Fremont Central Park. The alignment under Fremont Central Park would pass underground between the area of the softball playing fields and through a portion of the parking lot. It would then pass under the northeastern arm of Lake Elizabeth and cross under the existing Union Pacific Railroad track. Following construction of the subway, Stevenson Boulevard, Fremont Central Park, and Lake Elizabeth generally would be returned to their existing conditions, or existing recreational and support facilities will be rebuilt in different locations in Central Park. However, the subway alignment requires possibly two ventilation and emergency evacuation structures that will permanently extend above ground in Central Park.

The proposed length of the subway under Central Park is approximately 1 mile. A possible two-structure ventilating and emergency exit option is proposed. The first possible structure is proposed in the Fremont Central Park parking lot east of the Softball Complex, and the second possible structure would be placed in a wooded area east of Lake Elizabeth near Mission Creek. Please refer to Exhibits 1 and 2 for the proposed locations. These two venting and emergency evacuation structures would take up approximately 1.0 acre of land in Central Park. These structures are required for ventilation and emergency evacuation of the subway. To compensate for this land, BART is proposing to provide 1.0 acre of land east of the existing Union Pacific Railroad tracks adjacent to the Stivers Lagoon area of Central Park to the City of Fremont. This property would be added to the inventory of the City's Central Park in fee title, or pursuant to a license agreement with the Alameda County Flood Control and Water Conservation District (ACFC). See Exhibit 3 for the location and configuration of the land proposed for addition to Central Park.

Project Description: The City of Fremont is requesting that the Planning Commission find that the proposed disposition to BART of approximately 1.0 acre of land in Central Park to construct possibly two vent and emergency evacuation structures, as well as the acquisition from BART of approximately 1.0 acre of land east of the existing Union Pacific Railroad track adjacent to the Stivers Lagoon area in Central Park is in conformity with the General Plan. The acquired property would be added to the City's Central Park in either fee title or pursuant to a license agreement.

The proposal is an implementing portion of the BART to Warm Springs Extension project, as explained in the "Background and Previous Actions" section above. The portion of the BART subway through Central Park would result in temporary construction impacts, and permanent structures. The purpose of this report is to identify the permanent improvements, the proposed parkland disposition and acquisition, and the General Plan conformity of such parkland.

Property Ownership: The area of the first proposed structure is located on land owned by the City of Fremont (see Exhibit 1). The area of the second proposed structure is located on land owned by the Alameda County Flood Control and Water Conservation District (ACFC), which the City operates as parkland (a portion of Central Park) through a long-

term License Agreement with ACFC originally executed in 1968 (see Exhibit 2). The License Agreement gives the City the rights and responsibilities of improving, maintaining and operating the Districts land as public parks and recreational facilities.

As part of a proposed Property Exchange Agreement between BART and the City of Fremont, BART would transfer a total of 1.6 acres of land which the City would include in its inventory of parkland. Approximately 1 acre of this land would be accepted as replacement parkland for the area needed for the possible two vent and emergency evacuation structures in Central Park. The additional area could be reviewed for acceptance to the City's park inventory if BART improvements require additional parkland. The proposed Property Exchange Agreement will also identify the exchange of additional non-parkland property between the City and BART for the purpose of facilitating BART's construction of the WSX project, and the City's construction of the proposed Grade Separation Project at Paseo Padre Parkway and Washington Boulevard. Since the focus of the project described in this report is the parkland property, the additional non-parkland property acquisitions and dispositions will be brought back to Planning Commission for consideration in a separate item.

The area to be acquired is currently undeveloped with a Zoning designation of O-S and O-S (F) (Open Space and Open Space (Flood combining)) and a General Plan designation of Open Space and Institutional Open Space.

Legal Requirement for Public Land Acquisition: California Government Code Section 65402 establishes requirements for review of public property transactions by local planning agencies. Pursuant to the State code, the City of Fremont is required to submit all dispositions and acquisitions of property for public purposes to the Planning Commission. The City may not dispose of or acquire any property until the location, purpose and extent of the disposition and acquisition has been reviewed by the Planning Commission as to conformity with the adopted general plan.

While there is no legal requirement that the Planning Commission hold a public hearing on a finding for conformity with the General Plan, this procedure has been observed for other public acquisitions. The public hearing will help assure that adequate public notice is provided as to the intent to disposition and acquisition of the properties, and that the public is allowed to provide comments on this disposition and acquisition. Assuming the Planning Commission finds that the parkland disposition and acquisition is in conformity with the General Plan, the City Council will consider the proposed disposition and acquisition in late October or November of 2004. This proposed parkland disposition and acquisition is also required to be reviewed by the Recreation Commission for compliance with section 5400-5409 of the Public Resources Code, the Public Parks Preservation Act. The Recreation Commission is scheduled to review this project and make recommendations to the City Council on October 6, 2004.

General Plan Conformance: There are several sections of the General Plan that relate to the proposed BART to Warm Springs Extension and identify the City's need for the project and benefit from the project. These are found in the Fundamental Goals of the General Plan section, in the Transportation section, and in the Parks and Recreation section, as detailed below.

Fundamental Goals of the General Plan:

Goal F-11: INCREASED TRANSPORTATION ALTERNATIVES AND REDUCED DEPENDENCY ON THE AUTOMOBILE

While the auto will continue to be the dominant transportation mode for the foreseeable future, it is clear that over-dependence on the auto is not in the city's best interest. The high environmental and monetary cost of maintaining this dependency are indisputable. Fossil fuels are a finite resource that should not be squandered. The City of Fremont should promote strategies to encourage less dependency on the auto.

The disposition of the parkland is consistent with this Fundamental Goal of the General Plan because the subject area of the disposition is needed to implement the possible BART vent and emergency evacuation structures. The possible vent and emergency evacuation structures are necessary components of the approximate 1 mile subway underground through Central Park. BART has proposed the subway at the request of the City of Fremont. Implementation of the BART

extension to Warm Springs will provide public transit options for drivers in a larger geographic area who are now dependent on the auto.

Transportation Goals and Policies:

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| Objective T 2.2: | Convenient and attractive rail service to serve Fremont residents, workers and businesses as a viable alternative to the automobile. |
| Policy T 2.2.1: | Encourage the development of rail systems serving Fremont residents, workers and businesses. |
| Implementation 1: | Actively support BART extension to the southern part of Fremont, with stations in Irvington, Warm Springs and South Fremont. |

Again, the disposition of the parkland is consistent with this Transportation Objective, Policy and Implementation program. The existing park area to be used is needed to implement the possible BART vent and emergency evacuation structures. Implementation of the BART extension would provide convenient rail service. Implementation Program 1 requires the support of the BART extension to the southern part of Fremont, including Warm Springs.

Parks and Recreation Goals and Policies:

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| Objective PR 2.3: | Central Park managed for its long term environmental health and vitality. |
| Policy PR 2.3.1: | Central Park development shall be in accordance with a long range master plan that considers the long term role and function of the park within the City, competing needs and uses for the park, the importance of preserving its natural areas, and the need for areas of active and passive use. Privately owned and operated buildings shall not be permitted in Central Park west of the Southern Pacific railroad tracks. |
| Implementation 2: | A BART extension through Central Park shall be trenched, covered and sound insulated under Central Park, at a minimum from Stevenson to Paseo Padre. |

The City of Fremont's Central Park is 433.90 acres. The proposed parkland acquisition would add one acre of park land adjacent to the existing Stivers Lagoon area of Central Park. The General Plan policies of the Parks and Recreation Chapter anticipates the BART activity in Central Park. Implementation 2 states that the BART extension through Central Park shall be located underground through Central Park. Policy PR 2.3.1 identifies the need for areas of both active and passive use. The acquired property would add passive use space in the Stivers Lagoon area of Central Park.

In summary, these General Plan sections anticipate the BART extension and support the finding of General Plan conformity.

Environmental Analysis: A Negative Declaration has been prepared for this project. The comment period began September 22, 2004 and ends October 21, 2004. The City Council is tentatively scheduled to review the proposed environmental document in late October or November, 2004. The Commission may provide comments on the environmental document at this time.

A Supplemental Environmental Impact Report for the BART Warm Springs Extension was certified by the BART Board of Directors in June of 2003. This document identified and provided mitigations for the impacts of the possible two vent and emergency evacuation structures.

Enclosures: Locational Map

Informational: Initial Study and draft Negative Declaration

Exhibits:	Exhibit "A"	(Findings)
	Exhibit "1"	North Ventilation Structure
	Exhibit "2"	South Ventilation Structure
	Exhibit "3"	Proposed Replacement Park Land

Recommended Actions:

1. Hold public hearing.
2. Find that PLN2005-00065 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Fundamental Goals, Transportation and Parks and Recreation Chapters, as set forth in Exhibit A, hereby adopted by reference.

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Existing General Plan

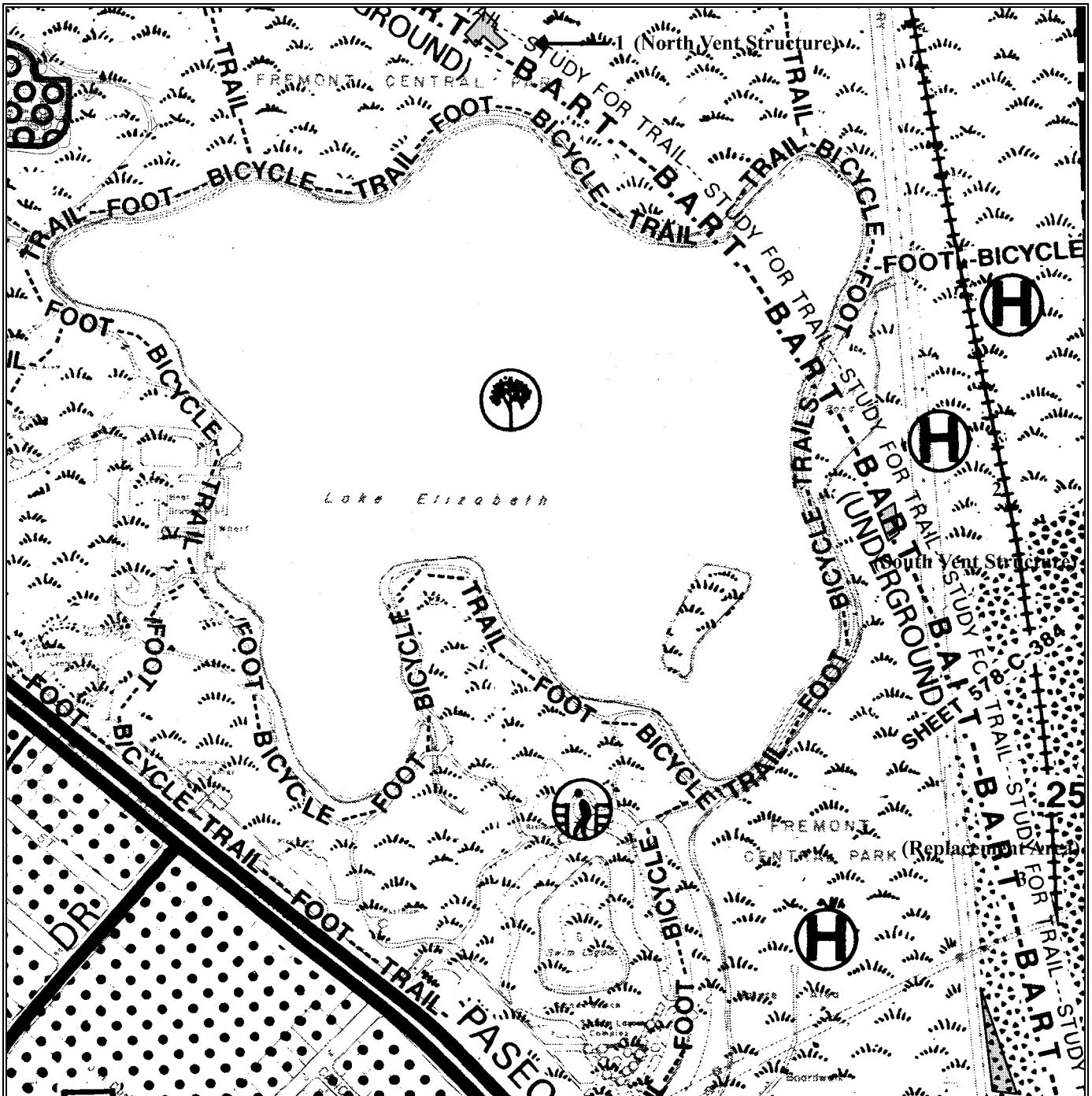


EXHIBIT "A"
BART WARM SPRINGS EXTENSION (WSX) PARKLAND DISPOSITION AND ACQUISITION
IN CENTRAL PARK
(PLN2005-00065)

FINDINGS

1. The findings below are made on the basis of information contained in the staff report to the Planning Commission dated September 23, 2004, and information received at the public hearing, incorporated herein.
2. The Planning Commission has considered the location, purpose and extent of the proposed disposition to BART of approximately 1.0 acre of land in Central Park to construct possibly two vent and emergency evacuation structures, as well as the acquisition from BART of approximately 1.0 acre of land east of the existing Union Pacific Railroad track adjacent to the Stivers Lagoon area in Central Park. The Planning Commission hereby finds that the proposed disposition and acquisition conforms to the adopted Fremont General Plan, specifically "Goal F-11: Increased Transportation Alternatives and Reduced Dependency on the Automobile. While the auto will continue to be the dominant transportation mode for the foreseeable future, it is clear that over-dependence on the auto is not in the city's best interest. The high environmental and monetary cost of maintaining this dependency are indisputable. Fossil fuels are a finite resource that should not be squandered. The City of Fremont should promote strategies to encourage less dependency on the auto."

The disposition of the parkland is consistent with this Fundamental Goal of the General Plan because the subject area of the disposition is needed to implement the possible BART vent and emergency evacuation structures. The possible vent and emergency evacuation structures are necessary components of the approximate 1 mile subway underground through Central Park for the extension of BART service from the Fremont BART station further south to Warm Springs, and a possible future extension to Santa Clara County. BART has proposed the subway under Central Park at the request of the City of Fremont. Implementation of the BART extension to Warm Springs will provide public transit options for drivers in a larger geographic area who are now dependent on the auto.

3. The Planning Commission further finds that the proposed acquisition would conform with the following General Plan policies, objectives and implementation measures:

Objective T 2.2: Convenient and attractive rail service to serve Fremont residents, workers and businesses as a viable alternative to the automobile.

Policy T 2.2.1: Encourage the development of rail systems serving Fremont residents, workers and businesses.

Implementation 1: Actively support BART extension to the southern part of Fremont, with stations in Irvington, Warm Springs and South Fremont.

Again, the disposition of the parkland is consistent with this Transportation Objective, Policy and Implementation program. The existing park area to be used is needed to implement the possible BART vent and emergency evacuation structures for the undergrounding of the BART tracks through Central Park. Implementation of the BART extension would provide convenient rail service. Implementation Program 1 requires the support of the BART extension to the southern part of Fremont, including Warm Springs.

Objective PR 2.3: Central Park managed for its long term environmental health and vitality.

Policy PR 2.3.1: Central Park development shall be in accordance with a long range master plan that considers the long term role and function of the park within the City, competing needs and uses for the park, the importance of preserving its natural areas, and the need for areas of active and passive use. Privately owned and operated buildings shall not be permitted in Central Park west of the Southern Pacific railroad tracks.

Implementation 2: A BART extension through Central Park shall be trenched, covered and sound insulated under Central Park, at a minimum from Stevenson to Paseo Padre.

The City of Fremont's Central Park is 433.90 acres. The approximately 1.0 acre area being provided to BART currently is developed with a parking lot, basketball courts, and other active recreational facilities. As a mitigation measure of BART's certified and adopted FEIR and SEIR for the Warm Springs Extension, BART has committed to meet the requirements of the Public Park Preservation Act, and will protect the vitality of Central Park by restoring or relocating such parking lot, basketball courts, and other improvements to other locations within Central Park so that Central Park users will continue to have use of such facilities. The approximately 1.0 acre is needed for two possible ventilation and emergency evacuation structures, which are needed because the BART tracks are otherwise underground through Central Park. The undergrounding of the BART tracks keeps the park spatially and physically unified, as well as mitigates noise and vibration to preserve usability for active and possible recreational pursuits.

The two possible vent and emergency evacuation structures will be private structures, not open to the public, with necessary security measures. As a mitigation measure adopted by BART with the Warm Springs Extension FEIR and SEIR, BART will work cooperatively with the City regarding design of such structures to make them compatible with Central Park.

The proposed parkland acquisition would add approximately one acre of park land adjacent to the existing Stivers Lagoon area of Central Park. The General Plan policies of the Parks and Recreation Chapter anticipates the BART activity in Central Park. Implementation 2 states that the BART extension through Central Park shall be located underground through Central Park. Policy PR 2.3.1 identifies the need for areas of both active and passive use. The acquired property would add passive use space in the Stivers Lagoon area of Central Park.

In summary, these General Plan sections anticipate the BART extension underground through Central Park and support the finding of General Plan conformity for the disposition of approximately 1.0 acre of property to BART for the two possible vent and emergency evacuation structures, as well as the acquisition of approximately 1.0 acre from BART for further expansion of the nature area near Stivers Lagoon.